

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**ALONZO CALVILLO, AS NEXT
FRIEND OF L.C.,**

Plaintiff,

v.

**JAIME CANO HERNANDEZ and
MERCEDES INDEPENDENT
SCHOOL DISTRICT,**

Defendant

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§ **CIVIL ACTION NO. _____**

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§ **JURY DEMAND**

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Mercedes Independent School District, (hereinafter “MISD” and “Mercedes ISD”) files this notice of removal under 28 U.S.C. §1446(a).

A. Introduction

1. Plaintiff is Alonzo Calvillo as next friend of L.C. Defendants are Jaime Cano Hernandez and Mercedes ISD.
2. This action originally commenced on September 7, 2022, in the 92nd Judicial District Court of Hidalgo County, Texas, as Cause No.: C-3473-22-A against Defendant Jaime Cano Hernandez, individually. Plaintiff asserted claims against Defendant Jaime Cano Hernandez of assault and intentional infliction of emotional distress under Texas law.
3. Defendant Jaime Cano Hernandez was served with Plaintiff’s Original Petition by substitute service on January 17, 2023.
4. On February 23, 2024, Plaintiff filed Plaintiff’s First Amended Petition, adding alleged violations of Title II of the Americans with Disabilities Act, § 504 of the Rehabilitation Act of 1973, as well as constitutional claims under 42 U.S.C. §1983 against a new

defendant—Mercedes Independent School District. As of this date, the case is styled, *Alonzo Calvillo, as next friend of L.C. v. Jaime Cano Hernandez and Mercedes Independent School District*. Defendant Mercedes ISD was served with Plaintiff's First Amended Petition on or about February 26, 2024. Plaintiff alleges claims of assault, intentional infliction of emotional distress and gross negligence against Defendant Jaime Cano Hernandez.

B. Basis for Removal

5. Removal is proper because this action is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331 and 28 U.S.C. § 1343. It is removable to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441; it is a civil action in which the federal district courts have original jurisdiction over the subject matter pursuant to the statutory and constitutional provisions noted above, since the case arises under the laws of the Constitution and United States. This Court also has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1337, because said claims are so related to Plaintiff's federal claims over which this Court has original jurisdiction on federal question grounds.
6. Defendant MISD has been properly served and this Notice of Removal is filed within thirty (30) days of receipt by Defendant of Plaintiff's First Amended Petition, which added federal statutory and U.S. Constitutional claims. This Notice is therefore timely filed pursuant to the provisions of 28 U.S.C. § 1446(b).
7. Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).

8. Venue is proper in this district under 28 U.S.C. §1441 (a) because the state court where the suit has been pending is located in this district.
9. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. Jury Demand

10. Plaintiff demanded a jury in the state-court suit.

D. Conclusion

11. **WHEREFORE, PREMISES CONSIDERED**, Defendant, MISD, prays that this cause be removed to the United States District Court for the Southern District of Texas, McAllen Division, and that the said Court grant said Defendant all relief, special or general, at law or in equity, to which it shows itself justly entitled.

Respectfully Submitted,

By: /s/ Miguel A. Saldaña
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**ATTORNEY IN CHARGE FOR
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**MERCEDES INDEPENDENT SCHOOL
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 22nd day of March 2024, a true and correct copy of the foregoing *Notice of Removal* was electronically filed with the Clerk of the Court using CM/ECF system and has been served on Plaintiff's counsel of record, pursuant to Federal Rules of Civil Procedure as follows:

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